



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2020-0743; EPA-R05-OAR-2021-0886; EPA-R05-OAR-2022-0123; FRL-9567-01-R5]**

**Air Plan Approval; Indiana; Redesignation of the Indiana Portion of the Chicago-Naperville Area to Attainment of the 2008 Ozone Standard, NO<sub>x</sub> RACT Waiver, and Serious Plan Elements**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) finds that the Indiana portion of the Chicago-Naperville, IL-IN-WI area (Chicago area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard). In addition, in response to a December 6, 2021, request from the Indiana Department of Environmental Management (Indiana or the State), EPA is redesignating the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS, because the State has met the statutory requirements for redesignation under the Clean Air Act (CAA). EPA is approving, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2035 for the Indiana portion of the Chicago area. EPA is also approving a waiver, for the Indiana portion of the Chicago area, from the oxides of nitrogen (NO<sub>x</sub>) requirements of the CAA. EPA finds adequate and is approving Indiana's 2030 and 2035 volatile organic compound (VOC) and NO<sub>x</sub>

motor vehicle emission budgets (budgets) for the Indiana portion of the Chicago area. Finally, EPA is approving the VOC reasonably available control technology (RACT), clean-fuel vehicle programs (CFVP), enhanced monitoring of ozone and ozone precursors (EMP), and enhanced motor vehicle Inspection/Maintenance (I/M) SIP revisions. These SIP revisions satisfy the above requirements for a nonattainment area that is classified as a "Serious area" for the Indiana portion of the Chicago area under the 2008 ozone NAAQS. EPA proposed to approve this action on March 3, 2022, and received adverse comments from one commentor.

**DATES:** This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established dockets for this action under Docket ID No. EPA-R05-OAR-2020-0743 (regarding the serious area elements), EPA-R05-OAR-2021-0886 (regarding the redesignation), or EPA-R05-OAR-2022-0123 (regarding the NO<sub>x</sub> RACT waiver). All documents in the dockets are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](https://www.regulations.gov) or at the Environmental Protection Agency,

Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Katie Mullen, Environmental Engineer, at (312) 312-353-3490 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3490, *Mullen.Kathleen@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **I. Background Information.**

On March 3, 2022 (87 FR 12033), EPA proposed to determine that the Indiana portion of the Chicago-Naperville, IL-IN-WI area is attaining the 2008 ozone NAAQS, and that the State has met the statutory requirements for redesignation under the CAA. EPA proposed to approve, as a revision to the Indiana SIP, the State's plan for maintaining the 2008 ozone NAAQS through 2035 for the Indiana portion. EPA also proposed to approve a waiver, for the Indiana portion of the Chicago area, from the NO<sub>x</sub> requirements of section 182(f) of the CAA. EPA proposed to approve and find adequate Indiana's 2030 and 2035 VOC and NO<sub>x</sub> motor vehicle emissions budgets for the Indiana portion of the Chicago area. EPA proposed to approve the VOC RACT, the CFVP,

and the EMP. Finally, EPA proposed to approve the State's enhanced I/M certification, because it satisfies the enhanced I/M requirements for "serious areas" for the Indiana portion of the Chicago area. The public comment period for this proposed rule ended on April 4, 2022. EPA received one supportive comment on the proposed redesignation. EPA also received adverse comments on the proposal from the Wisconsin Department of Natural Resources (WDNR). These comments will be addressed below.

On April 8, 2022, Indiana submitted new on-road emissions inventory information, which the State generated using EPA's MOVES3 model. Indiana requested that the new MOVES3 inventory information should replace the MOVES2014 emissions inventory, motor vehicle emissions budgets, and I/M performance standard modeling analysis that were included in the State's December 6, 2021 submission. MOVES3 is the latest MOVES version and is EPA's state-of-the-art model for estimating emissions from on-road mobile sources.<sup>1</sup> Consistent with our proposal based on the MOVES2014 modeling, the projected emissions inventory for 2035 incorporating the updated MOVES3 budgets demonstrates maintenance of the 2008 ozone NAAQS through the 2035 maintenance period. The MOVES3 I/M performance standard demonstration is consistent with the findings in EPA's proposal and supports Indiana's certification that its current I/M program in Lake and Porter counties meets the applicable Enhanced I/M performance

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<sup>1</sup> <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010LXH.pdf>

standard requirements in 40 CFR part 51, subpart S for the 2008 ozone NAAQS. With this additional MOVES3 information, EPA has determined that the Indiana portion of the Chicago area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

Below are the revised emissions data tables that contain the new on-road emissions inventory information from MOVES3. Tables 1 and 2 contain emissions with changes in VOC and NO<sub>x</sub> emissions from 2011 to 2019 for the Indiana portion of the Chicago area.

**Table 1. Emissions Reduction of NO<sub>x</sub> emissions for the Illinois, Indiana and Wisconsin portions of the Chicago nonattainment area 2011-2019 (tons/day)**

Sector	2011 nonattainment year	2019 attainment year	Emissions Reduction
<b>Illinois</b>			
EGU Point	67.41	35.23	32.18
Non-EGU	52.58	47.55	5.03
Area	32.03	34.63	-2.6
On-Road	285.34	134.38	150.96
Non-road	176.60	121.63	54.97
Total	613.96	373.42	240.54
<b>Indiana</b>			
EGU Point	24.04	4.29	19.75
Non-EGU	70.77	59.91	10.86
Area	9.39	0.91	8.48
On-road	31.55	9.48	22.07
Non-road	15.84	13.43	2.41
Total	151.59	88.02	63.57
<b>Wisconsin</b>			
EGU Point	8.71	0.00	8.71
Non-EGU	0.09	0.08	0.01
Area	1.20	1.13	0.07
On-Road	4.82	1.81	3.01
Non-road	2.25	1.64	0.61
Total	17.07	4.66	12.41
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>			
Illinois	613.96	373.42	240.54
Indiana	151.59	88.02	63.57
Wisconsin	17.07	4.66	12.41

Total	782.62	466.1	316.52
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**Table 2. Emissions Reduction of VOC emissions for the Illinois, Indiana and Wisconsin portions of the Chicago nonattainment area 2011-2019 (tons/day)**

Sector	2011	2019	Emissions Reduction
<b>Illinois</b>			
EGU Point	0.62	0.97	-0.35
Non-EGU	47.63	45.35	2.28
Area	215.14	232.00	-16.86
On-Road	72.43	66.45	5.98
Non-road	101.83	67.67	34.16
Total	437.65	412.44	25.21
<b>Indiana</b>			
EGU Point	0.54	0.47	0.07
Non-EGU	17.22	10.83	6.39
Area	18.26	17.00	1.26
On-road	7.60	3.51	4.09
Non-road	21.43	5.53	15.90
Total	65.05	37.34	27.71
<b>Wisconsin</b>			
EGU Point	0.38	0.00	0.38
Non-EGU	0.24	0.19	0.05
Area	4.10	3.58	0.52
On-Road	1.90	0.89	1.01
Non-road	1.14	0.70	0.44
Total	7.76	5.36	2.40
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>			
Illinois	437.65	412.44	25.21
Indiana	65.05	37.34	27.71
Wisconsin	7.76	5.36	2.40
Total	510.46	455.14	55.32

As shown in Tables 1 and 2, NO<sub>x</sub> and VOC emissions in the Indiana portion of the Chicago area declined by 63.57 tons/day and 27.71 tons/day, respectively, between 2011 and 2019. NO<sub>x</sub> and VOC emissions throughout the entire Chicago area declined by 316.52 tons/day and 55.32 tons/day, respectively, between 2011 and 2019.

Projected emissions data are shown in Tables 3 and 4 below.

**Table 3. Projected Emissions of NO<sub>x</sub> emissions for the Illinois, Indiana, and Wisconsin portions of the Chicago nonattainment**

**area 2030 and 2035 (tons/day)**

Sector	2019 attainment year	2030 interim year	2035 maintenance year	Emissions Reduction 2019-2035
<b>Illinois</b>				
EGU Point	35.23	43.59	40.97	-5.74
Non-EGU	47.55	48.56	49.28	-1.73
Area	34.63	34.97	35.04	-0.41
On-Road	134.38	55.94	48.81	85.57
Non-road	121.63	106.80	108.27	13.36
Total	373.42	289.86	282.37	91.05
<b>Indiana</b>				
EGU Point	4.29	1.44	0.42	3.87
Non-EGU	59.91	60.79	61.51	-1.60
Area	0.91	0.88	0.87	0.04
On-road	9.48	4.55	4.77	4.71
Non-road	13.43	10.25	8.49	4.94
Total	88.02	77.91	76.06	11.96
<b>Wisconsin</b>				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.08	0.12	0.12	-0.04
Area	1.13	0.95	0.96	0.17
On-Road	1.81	0.85	0.75	1.06
Non-road	1.64	1.21	1.21	0.43
Total	4.66	3.13	3.04	1.62
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>				
Illinois	373.42	289.86	282.37	91.05
Indiana	88.02	77.91	76.06	11.96
Wisconsin	4.66	3.13	3.04	1.62
Total	466.1	370.9	361.47	104.63

**Table 4. Projected Emissions of VOC emissions for the Illinois, Indiana, and Wisconsin portions of the Chicago nonattainment area 2030 and 2035 (tons/day)**

Sector	2019 attainment year	2030 interim year	2035 maintenance year	Emissions Reduction 2019-2035
<b>Illinois</b>				
EGU Point	0.97	2.52	2.80	-1.83
Non-EGU	45.35	44.71	44.54	0.81
Area	232.00	225.11	225.11	6.89
On-Road	66.45	37.42	34.27	32.18
Non-road	67.67	66.41	67.37	0.30
Total	412.44	376.17	374.09	38.35
<b>Indiana</b>				
EGU Point	0.47	0.56	0.67	-0.20
Non-EGU	10.83	10.84	10.90	-0.07
Area	17.00	17.58	17.85	-0.85
On-road	3.51	2.03	1.82	1.69

Non-road	5.53	4.80	4.35	1.18
Total	37.34	35.81	35.59	1.75
<b>Wisconsin</b>				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.19	0.26	0.26	-0.07
Area	3.58	3.49	3.56	0.02
On-Road	0.89	0.54	0.47	0.42
Non-road	0.70	0.63	0.62	0.08
Total	5.36	4.92	4.91	0.45
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>				
Illinois	412.44	376.17	374.09	38.35
Indiana	37.34	35.81	35.59	1.75
Wisconsin	5.36	4.92	4.91	0.45
Total	455.14	416.9	414.59	40.55

Table 5 contains the NO<sub>x</sub> and VOC motor vehicle budgets for the Indiana portion of the Chicago area for 2030 and 2035. The budgets include a 15% margin of safety applied to NO<sub>x</sub> and VOC emission estimates for both years.

**Table 5. Motor Vehicle Emissions Budgets for the Indiana portion of the Chicago area 2008 ozone Maintenance Plan (tons/day)**

Pollutant	2030 Budget	2035 Budget
NO <sub>x</sub>	5.23	5.49
VOC	2.33	2.09

### **III. Public Comments.**

EPA provided a 30-day review and comment period for the March 3, 2022, proposed rule. The comment period ended on April 4, 2022. We received one supportive comment on the proposed redesignation. We also received adverse comments from WDNR requesting that EPA not approve the NO<sub>x</sub> RACT waiver. These comments are summarized and addressed below.

*Comment 1:* A NO<sub>x</sub> RACT program was required for the three-state Chicago-Naperville 2008 ozone nonattainment area by January 1, 2017, after the area was reclassified to moderate. In response to this requirement, Indiana submitted several NO<sub>x</sub>

RACT waiver requests: the first in February 2017, the second in January 2020, and the third in January 2022. The Chicago nonattainment area did not attain the 2008 ozone standard in the 2019 ozone season and was reclassified to serious in August 2019. The Chicago nonattainment area briefly attained after the 2019 ozone season, but then violated the standard in 2020. The commenter states that this action is in response to Indiana's third NO<sub>x</sub> waiver request, which was submitted in January 2022. The commenter argues that EPA's delayed decision-making means Indiana is now 5 years overdue in implementing the CAA required NO<sub>x</sub> RACT program.

*Response:* CAA section 182(f)(1)(A) provides that the plan provisions to address RACT for major stationary sources of NO<sub>x</sub> for nonattainment areas not within an ozone transport region do not apply if EPA determines "that additional reductions of [NO<sub>x</sub>] would not contribute to attainment of the national ambient air quality standard for ozone in the area." The Chicago area is attaining the 2008 ozone NAAQS, based on the most recent certified monitoring data from the 2019-2021 period. It is EPA's longstanding interpretation, as stated in EPA's January 2005 document, "Guidance on Limiting Nitrogen Oxides Requirements Related to 8-Hour Ozone Implementation," that when an ozone nonattainment area is attaining the ozone standard, as demonstrated by three consecutive years of adequate monitoring data, "it is clear that the section 182(f)(1)(A) language is met since 'additional reductions of oxides of nitrogen would not

contribute to attainment.' That is, since attainment has already occurred, additional NO<sub>x</sub> reductions could not improve the area's attainment status and, therefore, the NO<sub>x</sub> exemption request could be approved."

EPA never acted on the waiver request submitted in February 2017 and, the waiver was withdrawn by IDEM in January 2020. Also, EPA never acted on the waiver request submitted in January 2020 and, that waiver was withdrawn by IDEM in November 2021. The NO<sub>x</sub> RACT waiver under consideration in this action was submitted by IDEM in January 2022 and is based on CAA section 182(f)(1)(A). This waiver can be approved because the area qualifies for the NO<sub>x</sub> RACT waiver due to the achievement of three years of clean monitoring data.

*Comment 2:* The implementation of NO<sub>x</sub> RACT is a cost-effective way to address ozone-forming compounds from stationary sources and NO<sub>x</sub> RACT technologies are widely available. Wisconsin has a fully approved NO<sub>x</sub> RACT program and Illinois implements a NO<sub>x</sub> emissions control program. Given this information, the commenter argues that there are no barriers in preventing the implementation of a NO<sub>x</sub> RACT program in Indiana.

*Response:* The Chicago area is attaining the 2008 ozone NAAQS, based on the most recent certified monitoring data from the 2019-2021 period. EPA is finalizing our approval of the NO<sub>x</sub> RACT waiver because as per the discussion above regarding the CAA section 182(f)(1)(A) the area qualifies for the NO<sub>x</sub> RACT waiver due to the achievement of three years of clean monitoring

data. The fact that other states (Wisconsin and Illinois) have implemented NO<sub>x</sub> controls on stationary sources has no bearing on the availability of this waiver under the CAA.

*Comment 3:* The Chicago nonattainment area continues to struggle to meet Federal ozone standards. The Chicago area has failed to meet its August 3, 2021, marginal attainment date for the more stringent 2015 ozone standard. The commenter further states that EPA is overdue in meeting its statutory obligation to reclassify this area to moderate for the 2015 standard, which was due within 6 months of that attainment date. When this reclassification to moderate under the 2015 ozone standard is finalized, Indiana will be required to submit a NO<sub>x</sub> RACT program under the CAA. Given this forthcoming NO<sub>x</sub> RACT requirement, the commenter argues EPA's proposed approval to waive an emissions control requirement that will soon be reinstated by statute should not be granted.

*Response:* In this action, EPA is granting a NO<sub>x</sub> RACT waiver only for the 2008 ozone standard based on three years of clean monitoring data for that standard. A CAA section 182(f) NO<sub>x</sub> exemption granted for the 2008 ozone standard does not relieve the area from any CAA section 182(f) NO<sub>x</sub> obligations under the 2015 ozone NAAQS (see 40 CFR 51.1313(c)). Therefore, a potential future reclassification of the Chicago area under the 2015 ozone standard does not prevent EPA from approving the NO<sub>x</sub> RACT waiver for the 2008 ozone standard.

*Comment 4:* The CAA does not compel EPA to grant this waiver

request and that the approval of the NO<sub>x</sub> waiver relies on EPA's 2005 guidance. In EPA's 2005 guidance, EPA cautions that actions relying on the guidance might not be approvable in every situation. The commenter requests that EPA explain how it is appropriate to apply that guidance when the Chicago area remains in nonattainment for ozone and needs additional NO<sub>x</sub> emissions reductions in the area to meet all of the ozone standards.

*Response:* The Chicago area is attaining the 2008 ozone NAAQS, based on the most recent certified monitoring data from the 2019-2021 period. In this action, EPA is granting a NO<sub>x</sub> RACT waiver only for the 2008 ozone standard because, as per the discussion above regarding the CAA section 182(f)(1)(A) and EPA's January 2005 document, the area qualifies for the NO<sub>x</sub> RACT waiver due to the achievement of three years of clean monitoring data. A CAA section 182(f) NO<sub>x</sub> exemption granted for the 2008 standard does not relieve the area from any CAA section 182(f) NO<sub>x</sub> obligations under the 2015 ozone NAAQS (see 40 CFR 51.1313(c)). Therefore, approval of a NO<sub>x</sub> RACT waiver only as it applies to the 2008 ozone NAAQS is appropriate.

*Comment 5:* EPA's recently released ozone transport modeling for the 2015 standard shows that Indiana significantly contributes to downwind nonattainment at several monitors along Wisconsin's Lake Michigan shoreline. Also, both the Sheboygan and Chicago nonattainment areas will continue to be nonattainment for the 2015 ozone standard in 2032 based on EPA's ozone transport modeling. Given these modeling results, the

commenter states that additional, timely reductions in ozone precursor emissions, including NO<sub>x</sub>, are needed to ensure attainment of the 2015 ozone standard throughout the region.

Response: The Chicago area is attaining the 2008 ozone NAAQS, based on the most recent certified monitoring data from the 2019-2021 period. In this action, EPA is finalizing our approval of the NO<sub>x</sub> RACT waiver only for the 2008 ozone standard because, as discussed above regarding the CAA section 182(f)(1)(A), the area qualifies for the NO<sub>x</sub> RACT waiver based on three years of clean monitoring data and EPA's modeling indicates that the Chicago area will continue to attain the 2008 NAAQS in the future. In this regard, further NO<sub>x</sub> reductions will not improve the area's ability to attain the 2008 ozone standard. In contrast, EPA's ozone transport modeling indicates that, barring further emissions reductions, this area will continue to have difficulty attaining or maintaining the 2015 NAAQS in 2024 (the Moderate Area attainment date for the 2015 NAAQS) and beyond. CAA section 182(f) NO<sub>x</sub> exemption granted for a prior ozone standard (in this case the 2008 standard) does not relieve the area from any CAA section 182(f) NO<sub>x</sub> obligations under the 2015 ozone NAAQS (see 40 CFR 51.1313(c)). If finalized, EPA's determination that the Chicago area failed to attain the 2015 ozone NAAQS by the attainment date and accompanying reclassification to Moderate would impose the CAA's NO<sub>x</sub> RACT requirements for the 2015 ozone standard.

#### **IV. Final action.**

EPA is determining that the Chicago area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2019-2021. EPA is approving Indiana's January 18, 2022, NO<sub>x</sub> exemption request as meeting section 182(f) requirements of the CAA. EPA is approving the VOC RACT, CFVP, EMP, and Enhanced I/M program SIP revisions included in Indiana's December 29, 2020, and January 18, 2022, submittals, because they satisfy the Serious requirements of the CAA for the Indiana portion of the Chicago area. EPA has determined that the Indiana portion of the Chicago area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Indiana portion of the Chicago-Naperville, IL-IN-WI area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also approving, as a revision to the Indiana SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Indiana portion of the Chicago area in attainment of the 2008 ozone NAAQS through 2035. Finally, EPA is finding adequate and is approving the newly established 2030 and 2035 motor vehicle emissions budgets for transportation conformity purposes in the Indiana portion of the Chicago area.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), EPA finds there is good cause for this action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d) (1) of the APA provides that final rules shall not become effective until 30 days after publication in the Federal Register "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. Fed. Commc'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment New Source Review (NNSR) permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive Prevention of Significant Deterioration (PSD) permitting requirements. For this reason, EPA finds good cause under 5 U.S.C. 553(d) (1) for this action to become effective on the date of publication of this action.

#### **V. Statutory and executive order reviews.**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d) (3) (E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A

redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in

Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2).)

#### **List of Subjects**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

##### *40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 16, 2022.

Debra Shore,  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, 40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (e) is amended by adding entries for “Lake and Porter Counties 2008 8-hour Ozone Serious Planning Elements”, “Lake and Porter Counties 2008 8-hour Ozone NO<sub>x</sub> RACT Waiver”, and “Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan” immediately following the entry for “Lake and Porter Counties 2008 8-hour Ozone Negative Declarations” to read as follows:

**§ 52.770 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Indiana date	EPA approval	Explanation
* * *	* * *	* * *	
Lake and Porter Counties 2008 8-hour Ozone Serious Planning Elements	12/29/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	2030 and 2035 VOC and NO <sub>x</sub> motor vehicle emissions budgets, VOC RACT certification, Enhanced Motor Vehicle Inspection and Maintenance Program certification, clean-fuel vehicle programs certification, enhanced monitoring of ozone and ozone precursors certification
Lake and Porter Counties 2008 8-hour Ozone NO <sub>x</sub> RACT Waiver	1/18/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Lake and Porter Counties 2008 8-hour Ozone Maintenance	12/06/2021	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

Plan			
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# **PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Section 81.315 is amended by revising the entry "Chicago-Naperville, IL-IN-WI" in the table entitled "Indiana-2008 Ozone NAAQS [Primary and Secondary]" to read as follows:

## **§81.315 Indiana**

\* \* \* \*

### **INDIANA--2008 OZONE NAAQS** [Primary and Secondary]

Designation area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * *	* * *			
Chicago-Naperville, IL-IN-WI <sup>2</sup> Lake County Porter County	<b>[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]</b>	Attainment	9/23/2019	Serious.
* * * *	* * *			

<sup>1</sup> This date is July 20, 2012, unless otherwise noted.

<sup>2</sup> Excludes Indian country located in each area, unless otherwise noted.

\* \* \* \*